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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,988	12/14/2001	William R. Matz	36968/265390 (BS01371)	4972

7590 04/25/2007
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EXAMINER

KOENIG, ANDREW Y

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/016,988

Applicant(s)

MATZ ET AL.

Examiner

Andrew Y. Koenig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.
2. The applicant has not traversed the examiner's assertion of official notice. Consequently, the examiner notes the features of the official notice are taken to be admitted prior art because the applicant failed to traverse the examiner's assertion of official notice.

Claim Objections

3. Applicant is advised that should claims 24 and 25 be found allowable, claims 24 and 25 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).
4. Further, the examiner notes that claims originally filed claim 24 is the system claim corresponding to claim 10. Claim 24 will be treated as it is currently written, but the examiner notes that claim 24 if intended to be the original claim would be discussed in claim 10.

Claim Rejections - 35 USC § 103

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 4-7, 9-11, 13, 15, 16, 18-21, 23-25, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/31114 to Grauch et al. (Grauch) in view of WO 01/47156 to Batten et al. (Batten).

Regarding claims 1 and 15, Grauch teaches a method and system for collecting subscriber data about a subscriber's use of media programming (pg. 10, ll. 13-26), identifying a command of interest from the subscriber (pg. 32-33, ll. 14-9), forming an event record that comprising the command of interest and a time associated with the command of interested (fig. 7A, 7B, pg. 32-33, ll. 14-9), merging the event record with data describing the media programming to form event timelines which describe the media programming selected by the subscriber over a period of time (fig. 7A, 7B, pg. 34, ll. 6-18), matching data from the event timelines with at least one relevant criteria describing which subscribers are desirable for receiving the selected advertisement (pg. 34, ll. 6-18), when data from the event timelines matches the at least one relevant criteria, then identifying the subscriber as a desirable subscriber to receive an advertisement (pg. 34, ll. 13-18).

Grauch is silent on classifying the subscriber in a user classification, communicating the media programming to the user, and when a match is defined

between the user classification and the advertisement, then inserting the advertisement in the media programming.

Batten teaches classifying the subscriber in a user classification (pg. 6, ll. 17-32, pg. 10, ll. 1-9), communicating the media programming to the user (pg. 10, ll. 10-16), and when a match is defined between the user classification and the advertisement, then inserting the advertisement in the media programming (pg. 10, ll. 1016, pg. 12-13, ll. 21-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grauch by classifying the subscriber in a user classification, communicating the media programming to the user, and when a match is defined between the user classification and the advertisement, then inserting the advertisement in the media programming as taught by Batten in order to intelligently select and display advertisements that offer products or services a viewer is truly interested in purchasing (Batten: pg. 4, ll. 6-20).

Regarding claims 2 and 16, Grauch teaches user viewing selections (fig. 7A, 7B).

Regarding claims 4 and 18, Grauch teaches user viewing selections (see fig. 7A, 7B), but is silent on sales data. In analogous art, Batten teaches sales data (pg. 12, ll. 5-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grauch by obtaining sales data as taught by Batten in order to better determine the users preferences.

Regarding claims 5 and 19, Grauch is silent on detecting a relationship between sales data and the event timeline. In analogous art, Batten teaches detecting a relationship between sales data and the event timeline (pg. 12, ll. 5-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grauch by detecting a relationship between sales data and the event timeline as taught by Batten in order to provide more effective targeted advertisements to the user.

Regarding claims 6 and 20, Grauch is silent on classifying the user in a user classification when the subscriber data satisfies a predefined parameter. Batten teaches classifying the user in a user classification when the subscriber data satisfies a predefined parameter (pg. 12, ll. 8-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grauch by classifying the user in a user classification when the subscriber data satisfies a predefined parameter as taught by Batten in order to cluster users into distinct groups thereby permitting the targeted content to be directed to a group of users.

Regarding claims 7 and 21, Grauch is silent on embedding the advertisement into the media programming. Batten teaches embedding the advertisement into the media programming (pg. 18, ll. 6-15). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grauch by

embedding the advertisement into the media programming as taught by Batten in order to enable targeted content viewed without the user changing channels.

Regarding claims 9 and 23, Grauch is silent on survey data. Batten teaches survey data (pg. 10, ll. 27-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grauch by using survey data as taught by Batten in order to enable the user to provide user-specific information and incorporate the data for tailoring the targeted advertisements more effectively.

Regarding claim 10, Grauch is silent on sales data. Batten teaches sales data (pg. 12, ll. 5-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grauch by using sales data as taught by Batten in order to enable the user to provide user-specific information and incorporate the data for tailoring the targeted advertisements more effectively

Regarding claims 11, 24, and 25, Grauch is silent on an image embedded into media content. Batten teaches inserting commercials (pg. 15, ll. 1-5, 14-19), which reads on image embedded into media content. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grauch by embedding images into media content as taught by Batten in order to effectively target commercials to targeted audiences.

Regarding claims 12 and 26, Grauch is silent on the advertisement being a video program. Batten teaches the advertisement being a video program (pg. 15, ll. 14-19). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grauch by using the advertisement as being a video program as taught by Batten in order to effectively provide target content within a broadcast transmission.

Regarding claims 13 and 27, Grauch and Batten are silent on a banner. Official Notice is taken that the use of using a banner for an advertisement is known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grauch and Batten by using a banner for an advertisement in order to provide targeted content while the user is viewing a program.

7. Claims 3, 8, 17, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/31114 to Grauch et al. (Grauch) and WO 01/47156 to Batten et al. (Batten) in view of U.S. Patent 5,945,988 to Williams et al. (Williams).

Regarding claims 3 and 17, Grauch and Batten are silent on receiving user identification associated with the user, wherein a plurality of users are associated with a user terminal. In analogous art, Williams teaches configuring a system in accordance for at one of plurality of users associated with a terminal (fig. 3, col. 8-9, ll. 56-30), wherein the system receives an identification associated with the user (col9-10, ll. 64-12, col. 10,

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II. 37-59). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grauch and Batten by receiving user identification associated with the user, wherein a plurality of users are associated with a user terminal as taught by Williams in order to identify which user is using the system and personalize the information directed specifically to the user, thereby creating a better experience for the user of the system.

Regarding claims 8 and 22, Grauch and Batten are silent on subscriber data comprising global computer network viewing data. In analogous art, Williams teaches user data such as time logged on a particular web page (col. 7, ll. 57-62), which reads on global computer network viewing data. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grauch and Batten by using user data comprising global computer network viewing data as taught by Williams in order to update and refine the user profile information, thereby enabling the system to reflect changes in behavior and use.

8. Claims 14 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/31114 to Grauch et al. (Grauch) and WO 01/47156 to Batten et al. (Batten) in view of U.S. Patent 6,177,931 to Alexander et al. (Alexander).

Regarding claims 14 and 28, Grauch and Batten are silent on an advertisement appearing at the same time as an electronic program guide. In analogous art, Alexander teaches placing advertisements appearing at the same time as an electronic

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program guide (EPG) (see. Fig. 1, 3, 4A, 4B, 5-9, 10A, and 10B). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Picco by placing advertisements appearing at the same time as an electronic program guide as taught by Alexander in order to improve opportunities for commercial advertisers to reach the viewer and enable product information access by the viewer (Alexander: col. 2, ll. 13-21).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

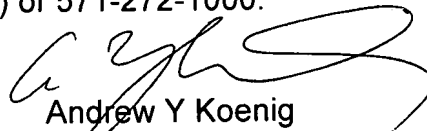
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Fr (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571)272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrew Y Koenig
Primary Examiner
Art Unit 2623

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